

FILED

MAR 11 2008

RICHARD W. WELING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

La Merle R. Johnson, J-92682
P.O. 409060 (C14-245L)
Ione, CA 95640-9060

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LA MERLE RONNIE JOHNSON,)
) C 07-2921 JSW
Petitioner,)
)
vs.) TRAVERSE TO RESPONDENT'S
) ANSWER
)
ROSANNE CAMPBELL, Warden,)
)
Respondent.)

As a Traverse to Respondent's Answer, Petitioner
responds as follows:

1: Respondent mistakenly alleges that portions of
Petitioner's writ is unexhausted; Respondent's Answer
(henceforth, RA) page 4, number 7 & 8, states that Petitioner
when denied in Superior Court filed "substantially the same
petition for writ of habeas corpus" in the Appellate and
California Supreme Court. True in part, it was the same writ,
page 7-33, what Respondent fails to point out is that Petitioner
made an addition, 'Petitioner's Response To Superior Court
Denial', page 34-50.

Appellate Court denied the writ in 48-hours,
prompting Petitioner to re-file the exact same writ in the
California Supreme Court, with one addition, 'Petitioner's
Response To Appellate Court Denial', which clearly pointed out
that writ was 50-pages, etc., (See Attachment I).

1 2: RA, pg. 4, ln. 21-23, #9, states that Petitioner
2 failed to exhaust his claims that Board wanted an admission
3 of guilt surrounding an alleged crime, etc., and that his
4 equal protection rights were violated.

5 Petitioner's Supreme Court Writ, page 45-47,
6 clearly addresses the Board wanting an admission. In regards
7 to not exhausting equal-protection argument, in supra, page
8 47, ln. 7-10, Petitioner stated;

9 "Petitioner reasonably states this, not one
10 inmate has ever been paroled by the Board who
11 failed to acknowledge guilt and remorse,
12 not one, yet the law clearly states that that
is not necessary."

13 "Yet that is not possible when Boards can take
14 similarly situated (Lifer's) inmates, and treat
them in an UNEQUAL fashion. How is this done?"
(pg. 35, ln. 12 $\frac{1}{2}$ -13 $\frac{1}{2}$)

15 3: Throughout Petitioner's writ in the State Courts,
16 he clearly points out systematic-issues surrounding Lifer
17 inmates and the Parole-Board policies/practices. RA, pg. 4-5,
18 ln. 28-2, claims these issues not exhausted.

19 ARGUMENT

20 Petitioner accepts that Federal Courts review, must be
21 highly deferential to State Courts. With that said, State
22 Courts rulings, must be constitutionally sound and not awry of
23 Federal-Law/Constitution.

24 Under AEDPA, a higher standard of review was put in
25 place, one that says no State action should be overturned
26 unless it contradicts law as established by the United States
27 Supreme Court. Throughout the RA, Respondent repeatedly
28

1 reminds the Court of this. Okay.

2 In Petitioner's writ he states that the law itself that
3 governs Parole-Suitability, is unconstitutional; Supreme Court
4 law is clear that no State can en-act and or enforce an
5 unconstitutional law. So this Court is within its rights to
6 make a determination on whether or not the law Petitioner and
7 other Lifers' are going to Board under, is unconstitutional.

8 No, the Supreme Court has never specifically ruled on
9 whether or not a State can pass/enforce a law surrounding
10 Parole-Board Hearings, which makes factors that were known at
11 the time of sentencing, okay to forever trump the liberity
12 interest of parole-eligibility. But the Supreme Court does
13 not have to have existing case-law on a subject for a lower
14 Federal Court to address it, why?

15 Our laws, despite AEDPA are not frozen in time. Under
16 Respondent's reasoning, no new issues will ever make it to
17 the Supreme Court, basically concluding and asserting; 'If it
18 was not clearly established law at the passing of AEDPA, no
19 Federal intevention can ever take place.' The end-game there
20 would be that the State can pretty much do anything it wants
21 in regards to enacting or enforcing its laws surrounding
22 prisoners, because any new theory of contention can not be
23 heard because it did not come up prior to passage of AEDPA.
24 That theory goes against the basic framework of the
25 constitution, and or Congressional or Presidential intent when
26 signing AEDPA into law.
27
28

1 In writ, Petitioner asserts several constitutional
2 themes of the California parole-board process which causes it
3 to be unconstitutional, in violation of Due Process and Equal
4 Protection; Respondent blanketly denies Petitioner's claims,
5 does not directly address any of the issues broadly effecting
6 all lifer-inmates, only asserting that under no Federal and
7 or legal thresh-hold can the writ be granted. Respectfully
8 Petitioner disagrees.

9 STANDARD OF REVIEW

10 Under the 'Some Evidence' threshold; Petitioner re-
11 asserts issues raised in writ, highlighting the conflict of
12 California-Law which states that a person does not have to
13 discuss the crime, in not discussing crime a person could not
14 show remorse, yet Board and California case-precedent demand
15 that crime be discussed and remorse expressed.

16 Respondent asserts that the only 'Due Process'
17 Petitioner was due, was the right to a hearing, to be heard,
18 and to be told why he was being denied; that under Supreme
19 Court law, that that is constitutionally sound. Respondent
20 ignores the fact, 'Due Process' also encompasses the State
21 adhering to its own laws, and that all those subjected to
22 such, be so subjected EQUALLY; which Petitioner asserts in
23 writ is not the case.

24 Respondent's Answer, in Petitioner's opinion, only
25 highlights the need for Federal-Intervention as a whole in
26 regards to California's Lifer Parole-Board Process.
27
28

1 Respondent asserts, as did the California Superior Court,
2 that an underground policy of denying parole is irrelevant, as
3 long as in the specific case denied, the Board's cite some
4 reasoning justifying denial. And per California law, such a
5 denial can be based on an unalterable factor such as how the
6 crime occurred. Neither the State Court or Respondent even
7 attempt at denying the existence of underground policy, they
8 just say it does not matter; and Respondent asserts to this
9 Court that it has no jurisdiction over the matter
10 because the Supreme Court has never addressed the issue.
11

12 A reasonable theory is that if a person has a right
13 to something, a parole-hearing, that it be fair and impartial.
14 California through its laws and actions are clearly saying
15 that their parole-board process for life-inmates will be
16 neither fair, nor impartial; and that the Federal Courts can
17 not intervene. Petitioner respectfully disagrees.

18 DISTRICT ATTORNEY BIASED

19 Respondent does not deny abuses, does not deny that
20 Parties who subjected Petitioner to criminal-plots which
21 almost literally cost him his life are still in power and the
22 ones contesting parole; just asserts District Attorney not
23 biased. When a person in power says that they are going to,
24 "Fry someone's ass", reasonably that person is biased. When
25 the frying almost results in the person being killed in
26 prison, and causes the person to be subjected to further harm,
27 not to mention the harms that preceded the statement in the
28

1 first place; it is not unreasonable to think that if State-
2 Officials would subject a person to such harm either through
3 direct action, or inaction (failing to prevent it), that those
4 Officials should not be allowed to give a parole-opinion in a
5 matter where one could reasonably assert that they in concert
6 with other's have broken some laws.

7 This Court, in case no. CV-02-5309 JSW, in a collateral
8 attack which in part utilized the same facts, stated in the
9 denial;
10

11 "While the Court is sympathetic to the harms
12 and threats Petitioner contends he suffered
13 while acting as a government agent in a state
14 murder trial, ... The Court cannot disregard
15 the law's mandates (AEDPA) because of harm
16 Petitioner suffered ..."

17 Reasonably speaking, the San Mateo County District
18 Attorney's Office should not be involved in Petitioner's
19 parole-eligibility process, they have a conflict.
20

21 ROOT OF THE PROBLEM

22 California law, conflicts with California case-
23 precedent; Prisoner's do not have to discuss the case nor
24 express remorse. But as Petitioner clearly shows in writ,
25 and Respondent demonstrates in Answer, everyone, Parole-
26 Board, California Courts, and California Attorney General,
27 ignores that fact and in denying or defending denial of
28 parole, cites differences Board/Court/Governor has with
inmates rendition of crime or expressions of remorse. This has
become an accepted practice, theory of law, and some inmates
are being subjected to it, other's are not.

1 When California Court and Attorney General believe and
2 assert that a Regulatory-Agent having a Underground Policy is
3 irrelevant, that which the Regulatory-Agent is over and more
4 importantly those subject to the authority, are in dire
5 constitutional trouble.

6 CALIFORNIA GOVERNOR-REHABILITATION

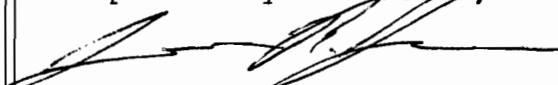
7 Board job as asserted in writ, to determine Re-
8 habilitation; Governor says under current prison-conditions,
9 rehabilitation not possible. How then is Board holding
10 hearings for lifer-inmates?

12 CONCLUSION

13 Petitioner, like many other inmates, will never get a
14 fair/impartial hearing from a Board who with the blessings of
15 the Courts/Attorney-General/Governor over it, acts outside of
16 the law.

17 California Courts in frustration with Board, have
18 reviewed parole-eligibility, granted release, and release has
19 occurred; Respondent ignores that fact when asserting that
20 this Court, a higher Court, can only grant a new-hearing in
21 front of a lawless Board.

22 This Court in the interest of all Lifer-Inmates should
23 hold hearings into the raised issues effecting all Lifer's,
24 and this specific Lifer. Counsel is requested to develop and
25 appear in such hearings, writ should issue, and this Court
26 upon its own accord is respectfully requested to release
27 Petitioner.
28

1 Respectfully Submitted,
2 
3

4 La Merle R. Johnson, Petitioner

Date: March 09, 2008

ATTACHMENT: I

Petitioner's Response To Appellate Courts Denial

Dated: 11/28/06

Respectfully, Petitioner asserts his writ was not given a thorough review, given that a 50-page writ, 12-page Superior Court denial, and 100+pages of exhibits were denied within a 48-hour period.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'La Merle R. Johnson', written over a horizontal line.

La Merle R. Johnson, Petitioner.

PROOF OF SERVICE

I, La Merle R. Johnson, on this date, March 09, 2008, did mail the following:

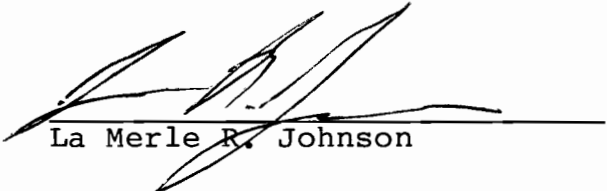
TRAVERSE TO RESPONDENT'S ANSWER

to the below addressed with proper postage attached;

Department of Justice
Attn: DAG Amanda J. Murray,
Bar no. 223829
455 Golden Gate Ave. Ste. 11000
San Francisco, CA 94102-3664

United States Northern District Court
Attn: Case No. C 07-2921 JSW
450 Golden Gate Avenue
San Francisco, CA 94102

I declare under penalty of perjury pursuant to the laws of California that the foregoing is true and correct, executed on March 09, 2008, in Ione, California.



La Merle R. Johnson